

To: Josh Niemtow[jniemtow@lssh-law.com]
From: Yeh, Alice
Sent: Thur 2/23/2017 7:06:09 PM
Subject: RE: Lower Passaic Dredging Info

Lisa Baron referred your questions on the Diamond Alkali-Lower 8.3 miles of the Lower Passaic River ROD to me.

As described in the ROD, the selected remedy for the lower 8.3 miles of the Lower Passaic River includes sufficient dredging and capping to allow for the continued commercial use of the federally-authorized navigation channel in the 1.7 miles of the river closest to Newark Bay.

As discussed in the Responsiveness Summary that is part of the ROD, the remedy for the lower 8.3 miles must comply with Section 10 of the Rivers and Harbors Act of 1988 (33 USC § 403), among other laws and regulations. Section 10 of the Rivers and Harbors Act prohibits creation of any obstruction to the navigable capacity of any waters of the United States without Congressional authorization, subject to U.S. Army Corps of Engineers (USACE) permitting authority with respect to work in or affecting navigable waters, such as excavating or discharge of dredged or fill material. In addition, it is EPA policy to consider reasonably anticipated future land and waterway uses during development of remedial alternatives and during remedy selection.

In order to select a capping remedy that would not permanently obstruct the navigable capacity of the Lower Passaic River in contravention of Section 10 of the Rivers and Harbors Act of 1899 and to accommodate reasonably anticipated future commercial navigational use, EPA evaluated USACE's 2010 Lower Passaic River Commercial Navigation Analysis Report (USACE, 2010), which assessed the current and potential future status of commercial navigation on the Lower Passaic River, as well as information submitted during the public comment period for the Proposed Plan that led to the ROD. Please see Section H.3.3 in the Responsiveness Summary for a full discussion of the information EPA evaluated to develop the navigation channel depths included in the selected remedy.

Please let me know if you have any additional questions.

Alice Yeh
Remedial Project Manager
EPA Region 2

-----Original Message-----

From: Baron, Lisa A CIV CENAN CENAD (US) [mailto:Lisa.A.Baron@usace.army.mil]
Sent: Monday, February 20, 2017 8:43 PM
To: Josh Niemtow <jniemtow@lssh-law.com>
Cc: Mosley, Hector CIV CENAN CENAD (US) <Hector.Mosley@usace.army.mil>; Yeh, Alice <Yeh.Alice@epa.gov>
Subject: RE: Lower Passaic Dredging Info

Josh-

Alice should reply to your email given your questions relate to the remedy. Thank you, Lisa

Lisa Baron
Project Manager
USACE- New York District
Programs and Project Management- Civil Works Branch
917-790-8306

-----Original Message-----

From: Josh Niemtow [mailto:jniemtow@lssh-law.com]
Sent: Monday, February 20, 2017 1:33 PM
To: Baron, Lisa A CIV CENAN CENAD (US) <Lisa.A.Baron@usace.army.mil>
Cc: Mosley, Hector CIV CENAN CENAD (US) <Hector.Mosley@usace.army.mil>; Yeh, Alice <Yeh.Alice@epa.gov>
Subject: [EXTERNAL] RE: Lower Passaic Dredging Info

Thanks for your help. I had a chance to look at this today. I still have a few questions, if that's not a problem.

If I understood the ROD correctly, It looks like the only part that's being dredged with navigational considerations is a 1.7 mile (maybe 2.2 mile) stretch. It also seems that the purpose of the dredging is to place this engineering cap, and only reason for a difference in depths (33 ft and 25 ft, vs 2.5 ft) is because the 1.7 is federally authorized at a certain depth?

I'm wondering if the dredging is to be deeper in this area than otherwise necessary for the remediation, because of these navigational considerations.

Thanks,
Josh

-----Original Message-----

From: Baron, Lisa A CIV CENAN CENAD (US) [mailto:Lisa.A.Baron@usace.army.mil]
Sent: Friday, February 17, 2017 12:22 PM
To: Josh Niemtow <jniemtow@lssh-law.com>
Cc: Mosley, Hector CIV CENAN CENAD (US) <Hector.Mosley@usace.army.mil>; Yeh, Alice <Yeh.Alice@epa.gov>
Subject: RE: Lower Passaic Dredging Info

Josh-

Hello. You definitely want to go to Blockedhttps://urldefense.proofpoint.com/v2/url?u=http-3A__www.ourpassaic.org&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-K7F6GhwIGpYi2GbL4kTyXpo&m=M-jvKktA7Lw3mKoa95BC8ERN486JXg07Lzl4HcaJrgg&s=hGMKrcFZ3s5BH4NBQ-3j3SKoxSNrr9yODJNtmRel48w&e= and download USEPA's Record of Decision for the lower 8.3 mile cleanup. I looked at Hector's email and I'm not sure what the link was below. The Corps has been working with EPA as a partner on the lower 17 mile study since 2003 to remediate (EPA Superfund) and restore (Corps Water Resource Development Act) the river in partnership with NJ, NOAA and USFWS.

The Corps conducted the navigational analysis (which is on Blockedhttps://urldefense.proofpoint.com/v2/url?u=http-3A__ourpassaic.org&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-K7F6GhwIGpYi2GbL4kTyXpo&m=M-jvKktA7Lw3mKoa95BC8ERN486JXg07Lzl4HcaJrgg&s=r5hiQO9HFPfmLQQVuFNAwxGBdS4hu7dFQ1rilSOD2BU&e=) that the EPA considered when determining reasonably anticipated future use of the river. The dredging that will be conducted on the Passaic would be conducted by USEPA/PRPs as part of the superfund remedy.

The future maintenance of the channel in the lower stretch of the river (following the cleanup) would be determined based on analysis of future commercial use and need through the Corps' traditional process for Operation and Maintenance.

I hope that helps clarify. Let me know if you have any additional questions. I am copying Alice Yeh, the EPA Superfund Manager of the project if you have any specific questions about the remedial action.

Thanks!
Lisa

Lisa Baron
Project Manager
USACE- New York District
Programs and Project Management- Civil Works Branch
917-790-8306

-----Original Message-----

From: Josh Niemtzow [mailto:jniemtzow@lssh-law.com]
Sent: Friday, February 17, 2017 10:49 AM
To: Baron, Lisa A CIV CENAN CENAD (US) <Blockedhttps://urldefense.proofpoint.com/v2/url?u=http-3A__Lisa.A.Baron-40usace.army.mil&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-K7F6GhwIGpYi2GbL4kTyXpo&m=M-jvKktA7Lw3mKoa95BC8ERN486JXg07Lzl4HcaJrgg&s=zjhzEJy2dwgW9FIC1dYQ6bB-9gZZ2vEIHV4mdixEAjs&e= >
Cc: Mosley, Hector CIV CENAN CENAD (US) <Blockedhttps://urldefense.proofpoint.com/v2/url?u=http-3A__Hector.Mosley-40usace.army.mil&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-K7F6GhwIGpYi2GbL4kTyXpo&m=M-jvKktA7Lw3mKoa95BC8ERN486JXg07Lzl4HcaJrgg&s=8PMKmT-SOVRD-UV6UL4L8IHfOaGAXXSw4SNCTMcmIJI&e= >
Subject: [EXTERNAL] FW: Lower Passaic Dredging Info

Hi Lisa,

I had asked Hector about the Passaic River dredging yesterday and I just wanted to follow-up via email to make sure I understood him correctly.

I had been told that the ACOE planned on dredging the Passaic River for navigational purposes. I thought this was separate from the environmental cleanup that requires removing sediments for ecological purposes. From what I gleaned from Hector, it sounds like the ACOE just assisted with the navigational analysis of the environmental dredging; that it is not a separate project from the environmental cleanup, simply that it will have a navigational purpose as well? I just wanted to clear this up.

Has it been determined who will perform the dredging and how much it will cost?

Thank you for your help,
Josh

-----Original Message-----

From: Mosley, Hector CIV CENAN CENAD (US) [mailto:Hector.Mosley@usace.army.mil]
Sent: Thursday, February 16, 2017 2:51 PM
To: Josh Niemtzow <jniemtzow@lssh-law.com>
Subject: Lower Passaic Dredging Info

Hi Mr. Niemtzow,

Per our discussion, below is a link to Our BlockedBlockedhttps://urldefense.proofpoint.com/v2/url?u=http-3A__Passaic.org&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-

K7F6GhwIGpYi2GbL4kTyXpo&m=sYYG7JuC4Bpdi3goSIipcCv-
XH5PzneoLppEpiOeGWg&s=yBPyH29MN1YEZH3gCYmiBARRHDXUCJddaacZ7u2gbQ&e= webpage,
which has general background info, fact sheets, etc., on the Lower Passaic River Cleanup.

BlockedBlockedhttps://urldefense.proofpoint.com/v2/url?u=http-
3A__www.ourpassaic.org_Default.aspx&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-
v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-
K7F6GhwIGpYi2GbL4kTyXpo&m=sYYG7JuC4Bpdi3goSIipcCv-
XH5PzneoLppEpiOeGWg&s=JH50a9u5PYE4E7Pa00vYq29g1FYszRIh2f4NW_-JAYU&e=

Also below is Lisa Baron, project manager, U.S. Army Corps of Engineers, New York District, she is the
subject matter expert for the Hudson-Raritan Comprehensive Restoration Plan, which also includes the
Lower Passaic.

Lisa Baron: 917-790-8306
Email: lisa.a.baron@usace.army.mil

Let us know if you have any additional questions.

Regards,

Hector Mosley
Public Affairs Specialist
U.S. Army Corps of Engineers, New York District Hector.Mosley@usace.army.mil Office phone: (917)790-
8111 Cell phone: (347)982-7553
YouTube: BlockedBlockedhttps://urldefense.proofpoint.com/v2/url?u=https-
3A__www.youtube.com_user_USACENewYorkDistrict&d=DQIFAg&c=euGZstcaTDIlvimEN8b7jXrwqOf-
v5A_Cdp gnVfiiMM&r=uRoTUckf5kDF90NbjHu-
K7F6GhwIGpYi2GbL4kTyXpo&m=sYYG7JuC4Bpdi3goSIipcCv-
XH5PzneoLppEpiOeGWg&s=76xObCMUv0fbTYIMmNRu1jGcEVJ911pJhupGL12Y4G8&e=

This email has been scanned for spam and viruses by Proofpoint Essentials. Visit the following link to
report this email as spam:

BlockedBlockedhttps://us1.proofpointessentials.com/index01.php?mod_id= &mod_option=gitem&mail_id
¶ 87274675-bfuh52kT0roj&r_address=iemtzw%40lssh-law.com&report=

This message and any attachments may contain confidential or privileged information and are only for the
use of the intended recipient of this message. If you are not the intended recipient, please notify the
sender by return email, and delete or destroy this and all copies of this message and all attachments. Any
unauthorized disclosure, use, distribution, or reproduction of this message or any attachments is
prohibited and may be unlawful.

***** Any Federal tax advice contained herein is not intended or written to be used, and cannot be used
by you or any other person, for the purpose of avoiding any penalties that may be imposed by the Internal
Revenue Code. This disclosure is made in accordance with the rules of Treasury Department Circular
230 governing standards of practice before the Internal Revenue Service. Any written statement
contained herein relating to any Federal tax transaction or matter may not be used by any person without
the express prior written permission in each instance of a partner of this firm to support the promotion or
marketing of or to recommend any Federal tax transaction(s) or matter(s) addressed herein.

This email has been scanned for spam and viruses by Proofpoint Essentials. Visit the following link to report this email as spam:

Blockedhttps://us1.proofpointessentials.com/index01.php?mod_id=87352154-m1pB4PVfmOuT&r_address=iemtzow%40lssh-law.com&report=